

PUBLIC HEARING AND REGULAR MEETING

**City of Hampton Wetlands Board
City Council Chambers, 8th floor, City Hall
July 22, 2003**

PRESENT: Chairman William M. Snider, II, Vice-Chairman William L. Wood, and Board Members Gayle Cozzens and Thomas W. Morris.

ITEM I. CALL TO ORDER

and

ITEM II. ROLL CALL.

Chairman Snider called the meeting to order at 5:00 p.m. and introduced each of the Board Members present. Staff persons in attendance were Staff Coordinator Brian Ballard and Sharon McSmith of the City of Hampton Planning Department, and Traycie West of the Virginia Marine Resources Commission (VMRC).

Chairman Snider explained to the public the purpose and jurisdiction of the Wetlands Board, the procedure of the meeting, and the process to appeal the Board's decisions.

ITEM III. JOINT APPLICATIONS (PUBLIC HEARING ITEMS).

Chairman Snider read the public hearing notice on the next agenda item.

Application No. 03-1287 by George Beeler to construct a 100'± linear riprap revetment on the shoreline at 422 Shoreline Drive off of the Southwest Branch of the Back River, a tributary of the Chesapeake Bay.

Mr. Brian Ballard, City Planner, presented the staff report on the subject application, a copy of which is attached hereto and made a part hereof. Staff recommended a reduction in the scope and impact of the project by reducing the width of the riprap to 8' on the side located east of the pier, moving the staked alignment two feet landward, and, on the west side where there is no erosion or current impact, reducing the riprap to 6 feet, moving the staked alignment four feet landward. Staff recommended approving the application subject to the five conditions in the package.

Kevin Call of Sandy Bay Marine Contractors stated that moving the rock back is no problem, nor is cleaning out the debris which should help more grass grow.

Vice-Chairman Wood stated that after visiting the site and having a discussion with the homeowner, he recommended that we pull a straight line from bulkhead to bulkhead

from where you have two landward marks, and place the rock out from that point, staying at a 2:1 slope. If the stone is pulled back behind the saltbush, it would come no where near the front toe and it would create good marsh and seawall. He stated that three feet above grade should be a maximum.

In response to questions by Mr. Call, Vice-Chairman Wood stated there is not much fall on the water side, and the vegetated grass is at the end of the toe.

Chairman Snider stated the line would come across the yard at a 2:1 slope in a straight line, and one side would come back 2-1/2 – 3’.

Mr. Call agreed with Vice-Chairman Wood that all of the debris would be removed.

In response to Vice-Chairman Wood’s concern, Mr. Ballard recommended approval contingent on the contractor submitting a new footprint and a condition that existing debris would be *completely removed*.

There was no one from the public to speak.

There being no additional discussion, a motion was made by Vice-Chairman Wood and seconded by Board Member Morris to approve Application No. 03-1287 subject to the following seven conditions:

1. The applicant will submit a revised project drawing (plan view and cross-sectional view) showing the new alignment of the rip rap revetment as running parallel between the landward stakes at each adjacent property line which are currently marked in the field.
2. The revised staked alignment of the proposed riprap revetment shall remain in place until installation of the revetment.
3. The slope of the riprap revetment shall be 2:1 and shall not extend channel ward of the staked toe.
4. The core stone and armor stone shall be 50 pounds and 75 pounds, respectively, and placed on filter cloth.
5. All of the existing debris shall be removed.
6. Should construction result in any disturbance to the existing Chesapeake Bay Resource Protection buffer, the buffer shall be returned to a condition substantially similar to its pre-permit condition.
7. Maintenance of this structure shall not exceed the limits of this permit and shall be limited to materials stipulated in this permit, unless otherwise approved by the Staff Coordinator. The Wetlands Board shall be notified prior to any maintenance activity.

A roll call vote on the motion resulted as follows:

AYES: Cozzens, Morris, Wood, Snider
 NAYS: None
 ABST: None
 ABSENT: Bellamy

Chairman Snider thanked the contractor (and owner) for working with the Board to get the riprap realigned.

ITEM III. JOINT APPLICATIONS (Continued).

Chairman Snider read the public hearing notice on the next agenda item.

Application No. 03-1109 by the City of Hampton to place 250± square feet of fill in an existing tidal drainage ditch located on the south side of Beach Road, east of its intersection with Lewis Lane and adjacent to the rear of 400 Beach Road, and to dredge 370± linear feet of existing tidal drainage ditch adjacent to the rear of the following properties: Nos. 700, 704, 706, 710 Beach Road, and to place 80± square feet of riprap fill at the eastern end of the dredging area and adjacent to the rear of 712 Beach Road. The ditch drains into Wallace Creek, a tributary to Back River and the Chesapeake Bay.

Chairman Snider stated this is an application we looked at last month and based on discussions with some of the affected residents on Fox Hill Road, we asked the City to look at the feasibility of extending the ditch maintenance portion of the project an additional 340' through a very dense stand of phragmites which is choking the ditch behind 712/714/716 Beach Road, and placing the riprap at the end of the extended ditch maintenance project. It was the Board's feeling that the City was "robbing Peter to pay Paul" because it would benefit some people further west on Beach Road by the firehouse and hurt people in the 700 block of Beach Road. A subjective opinion on the part of the residents was that an extension would alleviate some of the problems, and if the City is not going to do something with the phragmites it will continue to impede the water flow.

Mr. Ballard presented a brief staff report, showing photos of the project area. He stated the project could be extended through the current stand of phragmites, but it would be 840' short of what the applicant had originally brought to the Corps; the Corps had said there are some wetlands in the area that are of national significance. We asked the City to analyze the project based on three points. The first was whether it could get Corps approval for extending the project. Secondly, we asked them to look at the project from an operational standpoint as far as access to the site; they were going to be required, if they did extend the project, to haul material out so they would not be spreading phragmites into other areas. The last item we asked the City to look at is whether extending the project would add any benefit as far as stormwater design—would there be value added because of the project in that area.

Mr. Ted Henifin, Director of Public Works for the City of Hampton, stated they approached the Corps in 1997 to extend the project approximately 1,180 feet up the waterway from Hall Road and we received a read from the Corps that it wasn't going to happen. The only way to work in that area is to side-cast because there is no feasible way to get the material out. The area is populated with phragmites and, from an operational standpoint, we do not think we can get into the area and adequately do the project without doing damage to the existing phragmites and wetlands because it is rather marshy. The value of the 370' is questionable; in 1997 we were not allowed in this direction and the alternative was a successful project of having two outfall pipes at Willow Road with the water going under Beach Road. One of the issues we have is there is a lot of standing water in the deep ditch that we widened in 1995 from Sharon Bass Drive to Hall Road; the new outfall at Willow Road was working well and the application was driven by the need to regrade the ditch to try and eliminate some of the nasty water that stands in the ditch on a regular basis along Beach Road. The topography did not allow grading all the way back to Hall Road, and the drainage has to break both ways and so part of it will get back to Hall Road. We think there is some value to increasing the size of the receiving body to get it out of the ditch and to the other side. It will definitely help get the water to drain off the western side of Hall Road faster, except in high tide when nothing moves out fast. We have looked again at the extension and we do not think we can do it from a fiscal standpoint, and we don't think it adds a lot of benefit to the project; we would like to leave the project as originally proposed. We can get access to the 370' portion of the ditch and we will be removing all of the material and not side casting; after that we will fill the ditch on Beach Road which should help a lot of the problems that have existed for a number of years.

In response to questions and concerns by Vice-Chairman Wood concerning whether this project will drain properly and not cause blockage further along the ditch, Mr. Henifin stated there is a yard drain at Sharon Bass Drive and Beach Road that is almost flat that drains under Willow Road to Hall Road. The project breaks at Lewis Lane and drains back towards Hall Road. We would like to get the water to the more level area faster and that is why this piece has been added into the project. Concerning the ditch being too deep from Lewis Lane to Hall Road, Mr. Henifin stated they want to fill the ditch to change the grade to move the water faster. The water level at Hall Road is essentially the same, and the water in the ditch is below the project going out. He stated there are a lot of trees blocking the area and it is very tight and constricted, so if we can get the water under Hall Road and into the project area a little faster, we're hoping that it will alleviate some of the problems. The water is not going to go very far because there is no place else for it to go when the tide comes in, it has to filter through and it will take time for the water to get out.

Vice-Chairman Wood stated the area is blocked and he cannot see losing water from one section of a ditch and creating water behind somebody else's property; he does not see how the project is going to flow the water from Hall Road on out any faster; it will only put a big holding pond behind the homes in the 700 block of Hall Road. If you were only going to clear the ditch and keep it level—down two feet and four feet wide,

it may be a different situation, but the water is going to get to the phragmites and stop again.

Mr. Henifin stated the water is standing in one area or another; the thought process is the one area has a definite restriction on the channel and we thought we would get it open.

In response to a question by Chairman Snider concerning simply cleaning out the ditch, Mr. Henifin stated they could but from a design standpoint they felt it best to get the area to where they can work in it more easily.

Chairman Snider stated the City is proposing to make the ditch twice as wide; if you clean out the existing 4' ditch it would improve water flow and then you would not be creating another retention pond but doing ditch maintenance.

Mr. Henifin stated that drainage in Fox Hill is a tough issue—there is not a whole lot of grade and nothing is going to drain very fast in any direction; we feel strongly about the other part of the project in dealing with the ditch and filling in a portion. Mr. Henifin stated if the application is modified to allow cleaning the ditch to 4' it would help. Their feeling is when they get into an area such as this they want to get as much out as they can so they don't have to return in a short period of time.

Mr. Carl Wallace, 712 Beach Road, stated we seem to move water from one area to another so it is not backing up at the fire house, and he has no objection to doing it, but what he heard the City is proposing is only moving water and not helping it drain. The ditch is completely filled in and it will not drain unless we have heavy rains; even with normal rains there is no way that it can drain as long as the reeds are there and until the ditch is cleaned out all the way to Wallace Creek.

In response to questions by Chairman Snider, Mr. Wallace stated the only merit to cleaning out the existing ditch from Hall Road is that it will hold more water, but later it will still flood. He stated he does not see any merit in only cleaning it out. Lewis Routten has a big flood area; the ditch used to be hand dug and crabs and minnows used to be in there.

Mr. Robert Routten, 21 Wind Mill Point Road, stated we had drainage problems on Wind Mill Point Road and the City put a bridge across the marshland with a valve on Nelson Lane and it works fine. He stated he played in the ditch as a kid, and two days after it rained he could lie down in the ditch and play again. What is there is not made by God, it is man made, dug out with a shovel. We need to get the water moving; get the hot scum water out that breeds mosquitoes. The water does not drain towards the creek at the north end of Hall Road because of the refrigerators, tires, etc., stopping up the ditch. We need to do something to get the unhealthy scum and bacteria-filled water out of there.

Mr. Rhett Tignor, 111 Grundland Drive, stated he does not want to move water from one area to another. There are parts of the project that are viable. There are parts of the ditch that need to be filled in so the water can flow away from the residences. He requested the Board do the parts of the project that we know will work. Perhaps one day science will allow us to fix the other parts and still keep Fox Hill as low as it is.

Mr. Fred Everett, 308 Beach Road, behind 2 Holston Lane, stated he is concerned about the mosquitoes breeding. He has 5 children and worries about their health; when they have heavy rains they have large pools of water.

Chairman Snider stated that Lewis Lane is the dividing line of flow. The City is proposing to fill in one section of the bottom of the ditch to help it drain from the area, to force water to flow better to Hall Road.

Mr. Everett stated he has no problem with that and that it would also be nice if the banks were higher. He stated that no one addressed erosion; the ditch is 12' wide at some points and when the City mows down to the ground it disrupts prevention of erosion on the north side of Lewis Lane. The south side of Lewis Lane has reed grass that prevents the flow; to think the water flows out through Willow Road is a big misnomer at this time because of the vegetation that has grown in the ditch, as well as some of the banks settling down into the ditch. He wants to maintain flow in the ditch and not have any pockets of standing water. He questioned if they no longer have tidal flow, does the 100' buffer requirement still exist since it would change the definition of the properties in the area.

Ms. Ivy Mitchell, 1727 Beach Road, stated she owns 600, 602, and 604 Beach Road. She stated that the ditch has become wider over time and there is a lot of erosion; she would not like to see it get deeper on her end because it is overflowing the banks now.

Chairman Snider stated there does not seem to be support for dredging the 370' behind the homes east of Hall Road. He believes there is some merit to decreasing the level of the ditch at Lewis Road to help improve the flow towards Hall Road.

Vice-Chairman Wood stated his concern is that nothing has been presented from an engineering standpoint as to the grade from "Point A" to Hall Road; if we had those elevations we would know if that part of the project was going to work.

Mr. Henifin stated the City has done a survey at Lewis Lane and the invert of the existing pipe is 0.85" and at Holston Road it is 0.65" which means you have a fall which is a little over an inch from Lewis to Holston, and then from Holston to Hall Road it is less than that.

In response to a question by Board Member Morris, Mr. Chuck Fleming of the City's Public Works Department replied in the affirmative, that these were recent readings.

In response to a question by Vice-Chairman Wood as to what the readings were across Hall Road, Mr. Henifin stated the slope of the pipe goes 1.11", 1.84", 1.35", 1.4".

In response to questions by Chairman Snider, Mr. Henifin stated the water is going uphill to get to the marsh, almost a one-foot difference. The fall at the end of the proposed 370' project is 1.4".

In response to a question by Vice-Chairman Wood as to the readings east of that area, Mr. Fleming stated they did not go that far.

In response to Chairman Snider's question as to what the fall would be if the project stays as proposed, Mr. Henifin stated, as designed it is flat.

Chairman Snider stated that if the negative fall is further down, even after going across the riprap it will have to go uphill. The bottom of the ditch at Lewis Lane can't be raised enough to overcome the lack of fall, so we're stuck with a cesspool until the other problems are addressed. Mr. Henifin stated the Corps knows the problems from their request in 1997 and they don't see any issue with upland flooding of houses in relation to the structure—they take a fairly firm stand that you should not have built there, even though many of the houses predate any environmental regulations. The rules have changed on the people living in Fox Hill and now the City is left "holding the bag" and the Corps has little sympathy. The section of the ditch from Lewis Lane to Hall Road will be given some improvement.

In response to Chairman Snider's statement that raising the bottom of the ditch will enable to the water to move itself, Mr. Henifin agreed, but not any further than Hall Road; this will provide a little relief to some of the residents.

In response to a statement by Mr. Routten that we are going to change Hall Road into a bigger holding pond, Chairman Snider stated unless you take fall readings every 10-20 feet along the ditch, we already know there is only one inch of fall between Holston Lane and Hall Road so the water is not going to go anywhere fast.

In response to Mr. Routten's comment that a sump should be piped into the vacant lot by the cemetery to pump the water out, Chairman Snider stated that is not under the purview of the Wetlands Board. He stated the project may improve water flow some because it is going to force more water down towards Hall Road and will eventually force it over the negative fall to drain out. There is some merit in raising the ditch at Lewis Lane.

In response to Mr. Everett's question as to why we want the water to flow a particular way, Mr. Henifin stated the benefit is water that currently comes from Willow Road to Lewis Lane and from other points up won't be going in that direction; we will reduce the amount of water flowing toward Hall Road which is a benefit to an area that isn't getting much drainage.

Vice-Chairman Wood stated, with all due respect, that he has no problem with the project from Lewis Lane to Hall Road, but he does have a problem with the 370' and the 340' portions. If we stop beyond the 340' there is a good vital working marsh that would move the excess water out, and if we do not do the 340' it is ridiculous to do the 370' and cause a bottleneck. Maybe the project from Lewis Lane to Hall Road could be done and then come back later and address the whole 700+ feet to get to "Point B or C" to see if we can get the water flowing through good working marshes.

Mr. Wallace stated he agrees with Vice-Chairman Wood, and believes he could help the City get access to the private property of the 340' without having to go into the marsh.

Vice-Chairman Wood stated the project would be acceptable subject to modifying the conditions to raise the base elevation of the ditch at Lewis Lane not to exceed 250 square feet, and to eliminate the 370' ditch widening and maintenance east of Hall Road.

Mr. Henifin stated that would return the project to its original design, however, the City would like to be able to add more fill to the bottom of the ditch to get the water across Hall Road; we do not have an exact quantity, but we need to raise the ditch to a point where we can get flow.

Chairman Snider stated, and Vice-Chairman Wood agreed, that we propose removing the square foot limitation and include verbiage to enhance the flow of water east towards Hall Road, contingent upon re-drawing of the project.

There being no additional discussion, a motion was made by Vice-Chairman Wood and seconded by Board Member Cozzens to approve Application #03-1109, subject to the following three conditions:

1. The applicant will submit an updated project drawing (plan view and cross-sectional) that identifies that amount of fill that will be necessary to meet the stormwater design requirements of the drainage project.
2. The approved-staked alignment of the proposed fill footprint shall remain in place until construction begins.
3. Should construction result in any disturbance to the existing Chesapeake Bay Resource Protection buffer, the buffer shall be returned to its pre-permit condition.

A roll call vote on the motion resulted as follows:

AYES: Cozzens, Morris, Wood, Snider
 NAYS: None
 ABST: None
 ABSENT: Bellamy

Chairman Snider had to leave the meeting early and so the meeting was turned over to Vice-Chairman Wood.

ITEM IV. CONSIDERATION OF MINUTES.

There being no additions or corrections, a motion was made by Board Member Morris and seconded by Board Member Cozzens to approve the minutes of the June 24, 2003 Wetlands Board meeting. A voice vote on the motion resulted as follows:

AYES: Cozzens, Morris, Wood
 NAYS: None
 ABST: None
 ABSENT: Bellamy, Snider

ITEM V. STAFF REPORT.

Enforcement Policy

Mr. Ballard stated that the Codes Compliance and Planning Departments have been involved in creating a proposed enforcement policy for the Board which should be presented at the September meeting, possibly in a work session.

ITEM VI. MATTERS BY THE BOARD MEMBERS.

There were no additional matters presented by the Board.

ITEM VII. MATTERS BY THE PUBLIC.

Mr. Gene Cone, 1341 Coral Place, stated he has complained about the lack of City interest in wetlands because he is living on a mudflat; his real estate assessment went up \$21,000 and so did the mud in his back yard over the last two years. There is an article in today's paper of Elizabeth Lakes homeowners complaining that they could not get their boats in/out. It is ridiculous to be paying waterfront property tax while living on a mudflat. There was another article on July 5th saying the neighborhoods have met since 1992 to try to get their tributaries dredged, but the assessments go up and so does the mud. The City can build a convention center and other jazz but they cannot take care of nature. Sharing the cost of dredging is stupid; the backbone of

Hampton is the Hampton River—we can build on the waterfront but we cannot move a boat in or out. There was another article on July 13 saying the silt is courtesy of stormwater pipes and the role of the City is not to pay for dredging for private property. The City maintains the channel at Salt Ponds but not the rest of the City where the poor people are paying taxes. He stated there was another article in the newspaper concerning another locality seeking \$400,000 from either the State or Federal government to dredge the Pagan River, and he questioned how Hampton get money to dredge our waterways. Mr. Cone stated he will be at every meeting until the day he dies unless something is done.

Vice-Chairman Wood thanked Mr. Cone for his comments. He stated that earlier in the meeting a property owner was very willing to change her project because of the wetlands that would have been impacted and we appreciate her working with us; the City will probably gain wetlands because of the change and the Board's charge is no net loss. The Board's purpose is to make sure the public benefit outweighs the private detriment of any project. He stated the Board may not have solutions to problems relating to the back of Mr. Cone's home, but the Board is doing the best it can for Hampton within its guidelines.

Mr. Cone stated behind his house is City wetlands with trees falling in, and when the City neglects its own property the Board looks the other way.

Vice-Chairman Wood stated as projects come before us we have to work within the established criteria.

ITEM VIII. ADJOURNMENT.

There being no additional business, the meeting was adjourned at 6:14 p.m.

Respectfully submitted,

Brian Ballard, City Planner
Secretary to the Board

APPROVED BY:

William M. Snider, II, Chairman
Hampton Wetlands Board